The Federal Government does not have unlimited resources to pursue every technology innovation. By directing DOE to conduct this research using only existing funds in the Office of Science and EERE, the legislation redirects currently authorized funds. The Department of Energy has the capability and knowledge to lead on this type of long-term basic research. This groundbreaking science can lead to the development of innovative advanced energy technologies by the private sector.

Again, I want to thank Vice Chairman KNIGHT and both my Republican and Democratic colleagues on the Science, Space, and Technology Committee for supporting this basic research initiative in solar fuels.

As part of Leader MCCARTHY's Innovation Initiative, this legislation deserves the support of our House colleagues.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I reserve the balance of my time.

Mr. KNIGHT. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. WEBER), the chairman of the Energy Subcommittee.

Mr. WEBER of Texas. Mr. Speaker, I thank the gentleman from California for yielding.

Mr. Speaker, I rise today in support of H.R. 5638, the Solar Fuels Innovation Act.

This legislation directs the Department of Energy to focus on basic research that provides the foundation for our technology breakthroughs. Our aim is to shed a little sunlight on this process. As for the solar fuel process, also known as artificial photosynthesis, new materials and catalysts will be needed to be developed through basic research before the private sector will ever be able to develop a commercial solar fuels system.

If this research yields the right materials, Mr. Speaker, scientists might create a system that could consolidate solar power and energy storage into a cohesive process. This would potentially remove the intermittency of solar energy and make it a reliable power source for chemical fuels production. Folks, this is a game changer.

Last month, we held a hearing in the Energy Subcommittee that I chair in order to examine this critical research. We heard from a panel of experts on America's basic research portfolio, which provides the foundation for development of solar fuels through the study of chemistry and advanced materials.

I want to thank my colleague, Mr. KNIGHT, the vice chairman of the Energy Subcommittee, for introducing this important legislation.

I am also pleased that this legislation directs research within existing funds appropriated by Congress and does not authorize any new spending. Let me repeat: does not authorize any new spending.

Mr. Speaker, we have limited Federal resources for research and development, and it is our responsibility to ensure that those are spent wisely, on basic research that can provide benefits across the entire United States economy.

I urge my colleagues to support this innovative fiscally responsible legislation. You know I am right.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield back the balance of my time.

Mr. KNIGHT. Mr. Speaker, I yield myself such time as I may consume.

H.R. 5638 authorizes innovative basic research that will lead to groundbreaking technology in solar fuels.

By harnessing the expertise of our Nation's national labs and universities, now we can lay the fundamental scientific groundwork for the private sector's development of advanced solar fuels technology in the future. This could fundamentally change the way we extract energy from our natural resources.

I want to thank Chairman SMITH and my other colleagues on the Science, Space, and Technology Committee who have cosponsored H.R. 5638, including DAN LIPINSKI, RANDY NEUGEBAUER, BILL POSEY, RANDY HULTGREN, RANDY WEBER, BRIAN BABIN, and JOHN MOOLENAAR. I also want to thank the dozens of researchers and stakeholders who provided feedback as we developed this legislation.

Finally, I want to reiterate that H.R. 5638 authorizes no new Federal spending. I think we got that from Chairman WEBER. The bill reads: ''No additional funds are authorized to be appropriated under this section. This section shall be carried out using funds otherwise authorized by law.''

I urge the adoption of this commonsense, bipartisan legislation, which is part of Leader MCCARTHY's Innovation Initiative.

I yield back the balance of my time.

Ms. JACKSON LEE. Mr. Speaker, I rise in strong support of H.R. 5638, the "Solar Fuels Innovation Act," bipartisan legislation that establishes the Solar Fuels Basic Research Initiative at the Department of Energy.

As a former long-time member of the House Science Committee, I am well aware of the challenges posed by solar power generation.

In our diversified and globalized economy, it is critical to invest in innovative solar power research to ensure energy independence of the United States.

According to the most recent report by the International Energy Agency in 2014, the United States was fifth in solar power production.

The United States produced 18,317 megawatts of solar power in 2014.

The United States has more land space to harness solar power than some of the countries currently surpassing us, which includes Italy, Japan, and Germany.

H.R. 5638 authorizes the Secretary of Energy to implement the Solar Fuels Basic Research Initiative to expand the scientific knowledge of photochemistry, biochemistry, electrochemistry, and materials science needed to convert solar energy to chemical energy.

The legislation encourages multilateral and multidisciplinary research efforts between National Laboratories, universities, and the private sector to achieve milestones in advancing and modernizing solar power research.

H.R. 5638 specifically designates two subsections for innovation: (1) Artificial Photosynthesis, and (2) Biochemistry, Replication of Natural Photosynthesis and Related Processes.

The bill authorizes $150 million for each subsection of fiscal years 2017 through 2020.

H.R. 5638 also authorizes the same amount and division of funding amount to the "Biochemistry, Replication of Natural Photosynthesis and Related Processes" subcategory.

Mr. Speaker, this innovative legislation will help ensure that America remains a leader on the cutting edge of technological advancement.

I urge my colleagues to join me in supporting H.R. 5638.

The SPEAKER pro tempore (Mr. WEBER of Texas). The question is on the motion offered by the gentleman from California (Mr. KNIGHT) that the House suspend the rules and pass the bill, H.R. 5638, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SEPARATION OF POWERS RESTORATION ACT OF 2016

The SPEAKER pro tempore. Pursuant to House Resolution 796 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the further consideration of the bill, H.R. 4768.

Will the gentleman from Michigan (Mr. MOOLENAAR) kindly take the chair.

□ 2027

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H.R. 4768) to amend title 5, United States Code, with respect to the judicial review of agency interpretations of statutory and regulatory provisions, with Mr. MOOLENAAR (Acting Chair) in the chair.

The Clerk read the title of the bill.

The Acting CHAIR. When the Committee of the Whole rose earlier today, all time for general debate had expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

It shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary, printed in the bill. The committee amendment in the nature of a substitute shall be considered as read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 4768

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Separation of Powers Restoration Act of 2016''.

SEC. 2. JUDICIAL REVIEW OF STATUTORY AND REGULATORY INTERPRETATIONS.

Section 706 of title 5, United States Code, is amended—

(1) by striking ''To the extent necessary'' and inserting ''(a) To the extent necessary'';

(2) by striking ''decide all relevant questions of law, interpret constitutional and statutory provisions, and'';

(3) by inserting after ''of the terms of an agency action'' the following ''and decide de novo all relevant questions of law, including the interpretation of constitutional and statutory provisions, and rules made by agencies. Notwithstanding any other provision of law, this subsection shall apply in any action for judicial review of agency action authorized under any provision of law. No law may exempt any such civil action from the application of this section except by specific reference to this section''; and

(4) by striking ''The reviewing court shall—'' and inserting the following:

''(b) The reviewing court shall—''.

The Acting CHAIR. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in House Report 114–641. Each such amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. JOHNSON OF GEORGIA

The Acting CHAIR. It is now in order to consider amendment No. 1 printed in House Report 114–641.

Mr. JOHNSON of Georgia. Mr. Chairman, as the designee of the gentleman from Michigan (Mr. CONYERS), I offer an amendment.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 3, line 11, insert after ''extent necessary'' the following '', and except as otherwise provided in this section''.

Page 4, line 3, insert after the period at the end the following:

SEC. 3. EXCEPTED RULES.

Section 706 of title 5, United States Code, as amended by this Act, is further amended by adding at the end the following:

''(c) In the case of a rule made by the Administrator of the Environmental Protection Agency pertaining to regulation of lead or copper in drinking water, to the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action.''.

The Acting CHAIR. Pursuant to House Resolution 796, the gentleman from Georgia (Mr. JOHNSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Georgia.

Mr. JOHNSON of Georgia. Mr. Chair, the Conyers amendment would exempt from H.R. 4768, the Separation of Powers Restoration Act of 2016, regulations promulgated by the Environmental Protection Agency that protect drinking water from lead and copper contamination.

□ 2030

The Conyers amendment does not address a hypothetical concern. The recent lead-contaminated water crisis that occurred in Flint, Michigan, is only the latest in a history of cases of contaminated drinking water.

Without question, the Flint crisis was a preventable public health disaster. The lead contamination occurred because an unelected and unaccountable emergency manager decided to switch the city's water source to the Flint River without there being the benefit of proper corrosion control. As a result, corrosive water leached highly toxic lead from residents' water pipes, exposing thousands of children to lead, which, in turn, can cause permanent developmental damage.

While much of the blame for the Flint water crisis rests with unelected bureaucrats who prioritized saving money over saving lives, the presence of lead in drinking water is not unique to Flint. The drinking water of potentially millions of Americans may be contaminated by lead. In fact, just last month, elevated lead levels were detected in the drinking water supplied to the Cannon House Office Building right here on Capitol Hill.

It is a commonsense amendment, and it is common sense that urgent rulemakings, such as the EPA's proposed revisions to its Lead and Copper Rule, must not be impeded or delayed by measures such as H.R. 4768. Even before the Flint water crisis, the Agency had begun the process of updating this Rule, which was originally promulgated in 1991 after years of analysis.

Rather than hastening this rulemaking, however, H.R. 4768 would have the opposite effect. The bill would empower well-funded business interests to seek the judicial review of any regulation they opposed by a generalist, politically unaccountable court that lacks the requisite scientific or technical knowledge. The court could then make its own, independent determination based on its nonexpert views and limited information as to whether the Agency's proposed regulation is warranted.

The Conyers amendment simply preserves longstanding legal doctrine in cases involving the review of regulations that are designed to prevent the contamination of drinking water by lead and copper.

It is critical that Americans have access to safe drinking water, and we must not hinder the ability of Federal agencies, such as the EPA, to prevent future lead contamination crises, as occurred in Flint. Federal judges, who are constitutionally insulated from political accountability, should not have the power to second-guess the Agency's experts concerning the appropriateness of highly technical regulations that are crucial to protecting the health and safety of millions of Americans.

Accordingly, I urge my colleagues to support the Conyers amendment.

Mr. Chair, I yield back the balance of my time.

Mr. RATCLIFFE. Mr. Chair, I rise in opposition to the gentleman's amendment.

The Acting CHAIR. The gentleman from Texas is recognized for 5 minutes.

Mr. RATCLIFFE. Mr. Chair, the amendment carves out of the bill regulations on lead and copper in drinking water. In so doing, it would preserve unelected bureaucrats' broad discretion to impose on the public overarching statutory and regulatory interpretations in this policy area. This amendment would all but guarantee that these unaccountable bureaucrats won't have to worry any more than they do right now about courts checking on their self-serving interpretations. It would let agencies get away with just as much as they do right now in basing overreaching regulations on tortured interpretations of existing statutes instead of coming to Congress for new legislation because the plain terms of existing law really don't support what they want to do.

In short, the amendment seeks to perpetuate the Chevron and our doctrine's weakening of the separation of powers, a weakening that threatens liberty and that undermines the accountable government of, by, and for the people.

Mr. Chair, no one denies that drinking water regulation is important, but no area of regulation is so important that it should allow unelected bureaucrats to avoid a vigorous system of checks and balances that our Framers intended, a system that this bill would restore. Bureaucrats should know that they will face vigorous judicial checks and balances when they act so that they have the strongest incentives to offer the best possible statutory and regulatory grounds for their actions and to carry out the most responsible and fair enforcement possible.

I urge my colleagues to oppose the amendment.

Mr. Chair, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Georgia (Mr. JOHNSON).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. JOHNSON of Georgia. Mr. Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Georgia will be postponed.

AMENDMENT NO. 2 OFFERED BY MR. JOHNSON OF GEORGIA

The Acting CHAIR. It is now in order to consider amendment No. 2 printed in House Report 114–641.

Mr. JOHNSON of Georgia. Mr. Chair, I rise as the designee of the gentlewoman from Texas (Ms. JACKSON LEE), who has an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 3, line 11, insert after ''extent necessary'' the following '', and except as otherwise provided in this section''.

Page 4, line 3, insert after the period at the end the following:

SEC. 3. EXCEPTED RULES.

Section 706 of title 5, United States Code, as amended by this Act, is further amended by adding at the end the following:

''(c) In the case of a rule made by the Secretary of Homeland Security pertaining to any matter of national security, to the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action.''.

The Acting CHAIR. Pursuant to House Resolution 796, the gentleman from Georgia (Mr. JOHNSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Georgia.

Mr. JOHNSON of Georgia. Mr. Chair, I yield to the gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE. I thank the gentleman from Georgia for standing as the amendment was being called up.

Mr. Chair, I am on the floor. This is the Jackson Lee amendment. I hope the RECORD reflects it and corrects that I am here. The RECORD should be corrected.

This is an amendment that deals with homeland security, and it reflects my general debate statement that there are some restraints that this particular legislation has that are not well suited for the needs of the American people. In this instance, this particular amendment deals with homeland security and the agency rules and regulations that are issued by the Department of Homeland Security.

As currently drafted, H.R. 4768 would shift the scope and authority of the judicial review of agency actions away from Federal agencies by amending section 706 of the APA to require that courts decide all relevant questions of law, including all questions of interpretation of constitutional statutory and regulatory provisions on a de novo basis without deference to the agency that promulgated the final rule.

I am concerned about the ability of agencies to act in times of imminent need to protect citizens, in particular, dealing with homeland security and the very climate, Mr. Chair, that we are in as we speak.

The Jackson Lee amendment is a simple, but necessary, revision that would remedy this concern by excluding from the bill cases with rules that are made by the Secretary of Homeland Security and that pertain to any matter of national security.

Why can there not be a bipartisan assessment and accepting of this particular amendment that deals with the core of our responsibilities as President, as the executive, and then as Congress?

We are destined to be able to secure the security of America. Our courts, particularly the Federal courts, are to uphold the constitutional authority that is given to the Federal Government under the Constitution. The instance, certainly, of national security—the protecting of this Nation—is one of those.

The Constitution begins by saying that we have organized to create a more perfect Union. The Declaration of Independence, which is not part of the Constitution, indicates the inalienable rights of life, liberty, and the pursuit of happiness.

Liberty is certainly part of security, and I am dismayed by this legislation—this onerous burden of having a de novo review of the Homeland Security rule to protect the American people. We should have learned our lesson after 9/11 for those of us who were here in the United States Congress.

This is no reflection on the good intent of my colleague from Texas. I know his intentions are well, but I was here during 9/11. I was in this building. I was chased, if you will, by the horrors of those who were screaming ''get out'' of the Capitol of the United States with no knowledge. Yes, Mr. Chair, as I ran out with other colleagues, leaving shoes behind and literally running on one foot versus two feet, I could see the billowing smoke from the Pentagon.

What was in the air was the question of: Is it the White House next? Is it the State Department next? Is it my hometown of Houston—the energy capital, in essence, of the world?

These are the questions of security that the American people realize are real. And certainly in the backdrop of these tragic mass shootings and the involvement of the Homeland Security Department, I can make the very strong point that the Jackson Lee amendment is an amendment that should be considered seriously because a de novo review on a Homeland Security regulation is a difficult process to take in light of the responsibilities of national security.

My amendment would keep in place the appropriate and needed expertise and specialized abilities of the Department of Homeland Security to make the rules and regulations that are necessary for our Nation's security; so I ask my colleagues to support the Jackson Lee amendment.

Mr. Chair, I would like to thank Chairman SESSIONS and Ranking Member SLAUGHTER for making my amendment in order.

The Jackson Lee Amendment Number 2 exempts from the bill rules issued by the Department of Homeland Security.

H.R. 4768 purports to address constitutional and statutory deficiencies in the judicial review of agency rulemaking.

As currently drafted H.R. 4768 would shift the scope and authority of judicial review of agency actions away from federal agencies by amending Section 706 of the Administrative Procedures Act (APA) to ''require that courts decide all relevant questions of law, including all questions of interpretation of constitutional, statutory, and regulatory provisions, on a de novo basis without deference to the agency that promulgated the final rule''.

Effectively, H.R. 4768 would abolish judicial deference to agencies' statutory interpretations in federal rulemaking and create harmful and costly burdens to the administrative process.

Mr. Chair, I am concerned about the ability for agencies to act in times of imminent need to protect citizens.

In particular, H.R. 4768 would make sweeping and dangerous changes that would jeopardize the ability of the Department of Homeland Security to protect our nation in times of urgent and imminent need.

The Jackson Lee Amendment Number 2 is a simple but necessary revision that would remedy this concern by excluding from the bill cases with rules made by the Secretary of Homeland Security and pertaining to any matter of national security.

As a Senior Member of the Homeland Security Committee, I understand the many challenges the Department of the Homeland Security (DHS) already faces and its critically important role in preventing terror threats and keeping Americans safe.

The Department is the first line of defense in protecting the nation and leading recovery efforts from all-hazards and threats which include everything from weapons of mass destruction to natural disasters.

We do not need to be reminded of the heightened state of security we are now in and the ever-increasing demands imposed upon our government agencies tasked with keeping our borders and citizens safe.

Now is not the time to undermine or slow the ability of DHS and its ability to address growing threats and active acts of terrorism.

For the past 70 years the APA has served and guided administrative agencies and the affected public in a manner that is flexible enough to accommodate the variety of agencies operating under it inclusive of changes through time.

The overall mission of DHS is too critical and its functions indispensably essential, such that it would be impugned to do anything that will slow down the process that allows DHS to do its job.

The Jackson Lee Amendment Number 2 would keep in place the appropriate and needed expertise and specialized abilities of the Department of Homeland Security to make rules and regulations necessary for our nation's security.

I urge my colleagues to support the Jackson Lee Amendment Number 2.

Mr. RATCLIFFE. Mr. Chair, I rise in opposition to the gentlewoman's amendment.

The Acting CHAIR. The gentleman from Texas is recognized for 5 minutes.

Mr. RATCLIFFE. Mr. Chair, while I respect the gentlewoman's service and the spirit in which she offers this amendment, this amendment carves out of the bill national security regulations from the Department of Homeland Security. As we all know, Mr. Chair, the Department of Homeland Security is an agency that has a long

record of significant, unconstitutional regulatory overreach. To that end, we should be strengthening the courts' ability to check that, not weakening it, as the gentlewoman's amendment would do.

Again, no area of regulation is so important that we should allow unelected bureaucrats to avoid the vigorous system of checks and balances that our Framers intended and that this bill would restore; so I urge opposition to this amendment.

Mr. Chair, I reserve the balance of my time.

Mr. JOHNSON of Georgia. Mr. Chair, I yield the balance of my time to the gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE. Mr. Chair, I thank the gentleman for claiming the time, but I do want the RECORD to reflect that this is a Jackson Lee amendment. However the RECORD can correct it, I desire for it to do so.

This amendment is in keeping with Justice Scalia, who was an aggressively vocal supporter of the Chevron deference during his career. It is an indication of just how broad and mainstream the support is for maintaining such deference, and that is deference to the agencies and their reviews and their expertise.

With the de novo scenario that this bill provides for, in spite of its alleged exemptions of national security issues, there is a vast level of responsibility of the Homeland Security Department. Frankly, all of its work comes under the context of regular order for protecting the American people—from immigration issues, to policing issues, to Secret Service—and many of these should not be tampered with by a de novo review of the regulatory scheme that they will be putting forward.

I ask my colleagues to support the Jackson Lee amendment to secure the Nation.

Mr. JOHNSON of Georgia. Mr. Chair, I yield back the balance of my time.

Mr. RATCLIFFE. Mr. Chair, the Chevron doctrine is the primary driver of regulatory overreach. It should be overturned. This bill would do that; so I oppose this amendment.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Georgia (Mr. JOHNSON).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. JOHNSON of Georgia. Mr. Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Georgia will be postponed.

□ 2045

PARLIAMENTARY INQUIRY

Ms. JACKSON LEE. Mr. Chair, I have a parliamentary inquiry.

The Acting CHAIR. The gentlewoman from Texas will state her parliamentary inquiry.

Ms. JACKSON LEE. Mr. Chair, am I able to request a unanimous consent to make that the amendment from Jackson Lee?

The Acting CHAIR. The Chair would not entertain that request in the Committee of the Whole.

AMENDMENT NO. 3 OFFERED BY MR. MEEKS

The Acting CHAIR. It is now in order to consider amendment No. 3 printed in House Report 114–641.

Mr. MEEKS. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 3, line 11, insert after ''extent necessary'' the following '', and except as otherwise provided in this section''.

Page 4, line 3, insert after the period at the end the following:

SEC. 3. EXCEPTED RULES.

Section 706 of title 5, United States Code, as amended by this Act, is further amended by adding at the end the following:

''(c) In the case of a rule made by the Secretary of Housing and Urban Development, to the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action.''.

The Acting CHAIR. Pursuant to House Resolution 796, the gentleman from New York (Mr. MEEKS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York.

Mr. MEEKS. Mr. Chairman, let me start by saying straight out that I do not support the underlying bill.

I encourage my colleagues to support my amendment that would lessen the negative budget impact of this bill and exempt any rules issued by the Department of Housing and Urban Development from additional judicial review and delay. I think this is important for all of us in the House, whether we be Democrats or Republicans.

First, in dealing with the overall bill, it would severely hamstring and weaken our country's regulatory agencies. Dating back more than 100 years, regulatory agencies have executed congressional directives or identified public problems and fixed them utilizing their agency's expertise. This bill undercuts agencies' ability to do both of those things. It also throws out of balance our systems of checks and balances.

Recently, we witnessed a public health crisis in Flint, Michigan, where thousands did not have access to safe, potable drinking water.

Is the natural response to this crisis to hinder the very agencies who are supposed to protect the public?

It is not the natural response. It is the wrong response.

We shouldn't tie the hands of the Environmental Protection Agency, the Department of Health and Human Services, and other agencies whose main objective is to protect our citizens. In attacking Federal agencies that protect the public with safeguards, my colleagues on the other side of the aisle are actually attacking the public interest.

One of these agencies that advances the public interest is the United States Department of Housing and Urban Development, better known as HUD. HUD provides rental assistance, affordable housing, and community development block grants, all of which are enormously important for people throughout our great Nation. I grew up in public housing, so I know the importance of programs that put a roof over a family's head. Also, community development block grants are helping to rebuild cities like New York in the wake of Superstorm Sandy, which devastated so many families.

Furthermore, HUD prevents discrimination in housing and in lending. It ensures that landlords cannot deny housing to someone based on his or her race, religion, national origin, or disability. HUD also helps low-income families secure housing. Prospective buyers receive HUD assistance when buying their first home, which is oftentimes the biggest investment they will make in their lifetime. HUD, therefore, offers the opportunity for wealth accumulation and gives folks the pride that comes along with owning a home. Indeed, HUD keeps the American Dream of home ownership alive.

For our veterans, who have served their Nation with honor and deserve our unending support, HUD helps them secure housing. HUD provides homeless individuals with necessary resources to help them overcome homelessness. Individuals who suffer domestic violence also receive assistance from HUD, and we must continue to provide these victims with a safe space, protected from their abusers.

All of these populations deserve continual and robust support from HUD and our Federal Government. These are just a few examples of the impact of HUD's work and all of the people it helps. I could honestly say that it is one of the most visible and beneficial agencies that serves all of our constituents.

So I am a supporter of HUD, and I believe in all of its good work. I offer my amendment to protect HUD, as it has protected so many Americans and their families. My amendment would exempt rules issued by HUD from being included in this bill. I encourage my colleagues to vote for my amendment to relieve HUD from these foolish attacks.

I reserve the balance of my time.

Mr. RATCLIFFE. Mr. Chairman, I claim the time in opposition.

The Acting CHAIR. The gentleman from Texas is recognized for 5 minutes.

Mr. RATCLIFFE. Mr. Chairman, I oppose the amendment. This is an amendment which carves out of the bill regulations issued by the Department of Housing and Urban Development.

Mr. Chairman, there is no basis upon which to single out HUD as an agency

to which courts should defer on questions of statutory and regulatory interpretation. To the contrary, HUD has proven that it can overreach just as egregiously, just as oppressively as any other agency, and, therefore, needs just as strong a check and balance from the courts like any other agency.

Mr. Chairman, like too many of its sister agencies, HUD is attempting to use Federal regulation to unconstitutionally assert control over wide swaths of American life. To see this, one need look no further than HUD's controversial regulation in 2015 that threatens to federalize local zoning authority. That regulation would withhold Federal funding if municipalities all across the land don't actively work to change residential patterns that don't conform to the desires of HUD bureaucrats.

The regulation is a major extension of HUD's authority. It challenges local, neutral zoning policies merely because they produce uneven effects across population groups. And the use of the withholding of Federal funds to make localities knuckle under to HUD's dictates is an attempt to extort local communities into giving up control of local zoning decisions that have traditionally been theirs under the Constitution.

A decision like HUD's is precisely the kind of decision in a democracy that should be made by accountable, elected representatives of the people, not by the fiat of bureaucrats emboldened by smug claims to Chevron deference from the courts.

I urge my colleagues to oppose this amendment.

I reserve the balance of my time.

Mr. MEEKS. Mr. Chairman, how much time do I have remaining?

The Acting CHAIR. The gentleman from New York has 30 seconds remaining.

Mr. MEEKS. Mr. Chairman, let me say, first of all, this bill is not going anywhere, fortunately, because this deceptively named Separation of Powers Restoration Act is something that really would hurt America and the American people.

So I urge to let's make the bill better by passing my amendment and other amendments that you have heard earlier. But the underlying bill is a bad bill. It is bad for our people, and we should vote ''no'' on the underlying bill also.

I yield back the balance of my time.

Mr. RATCLIFFE. Mr. Chairman, I urge my colleagues to oppose this amendment.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from New York (Mr. MEEKS).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. MEEKS. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York will be postponed.

AMENDMENT NO. 4 OFFERED BY MR. JOHNSON OF GEORGIA

The Acting CHAIR. It is now in order to consider amendment No. 4 printed in House Report 114–641.

Mr. JOHNSON of Georgia. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 3, line 11, insert after ''extent necessary'' the following '', and except as otherwise provided in this section''.

Page 4, line 3, insert after the period at the end the following:

SEC. 3. EXCEPTED RULES.

Section 706 of title 5, United States Code, as amended by this Act, is further amended by adding at the end the following:

''(c) In the case of a rule made pursuant to an explicit grant of authority in any statute, to the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action.''.

The Acting CHAIR. Pursuant to House Resolution 796, the gentleman from Georgia (Mr. JOHNSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Georgia.

Mr. JOHNSON of Georgia. Mr. Chairman, I rise in support of my amendment, which exempts from the bill rules issued by agencies pursuant to their express statutory authority.

H.R. 4768 is a misguided and dangerous bill that simply does not understand courts must always give effect to clearly expressed congressional intent under current law.

H.R. 4768 would dismantle decades of judicial practice and establish generalist courts as super-regulators with sweeping authority over the outcome, and perhaps even substance, of agency rulemaking even where Congress expressly grants authority for agency action.

At the subcommittee hearing on the bill, the majority's own witness, Professor Jack Beermann, testified that the bill ''may go too far'' by disabling ''reviewing courts from taking into account the views of an administering agency on questions of statutory interpretation.''

Professor Beermann expressed additional concerns that H.R. 4768 may frustrate Congress' intent for highly technical areas in which Congress expects an agency to apply its expertise.

Furthermore, as Professor Beermann testified, in areas where Congress expressly grants authority for an agency to undertake an action, such as defining a term, H.R. 4768 would represent a ''fundamental shift in authority'' while making it difficult for Congress to allow deference where appropriate.

The late-Justice Scalia held a similar view on judicial deference. Writing for the majority in the City of Arlington, Texas v. FCC, Justice Scalia argued that requiring a de novo review of every agency rule without any standards to guide this review would result in an ''open-ended hunt for congressional intent,'' rendering the binding effect of agency rules unpredictable and eviscerating ''the whole stabilizing purpose of Chevron. The excessive agency power that the dissent fears would be replaced by chaos.''

In recognition of these concerns, my amendment would exempt from the bill agency rules promulgated in response to a clear and unequivocal mandate from Congress. Without my amendment and notwithstanding the endearing title of the bill, H.R. 4768 would create countervailing separation of powers concerns by casting aside Congress' role in shaping agency rules in favor of judicial activism.

As a group of our Nation's leading administrative law experts have observed, H.R. 4768 is disruptive to the careful equilibrium that the full body of administrative law doctrine seeks to achieve. Administrative law is not perfect, but this bill tilts too strongly in favor of judicial power at the expense of the other two branches. In other words, the likely outcome of enacting this unwise proposal would be more power in the hands of a single branch of government that is unelected and unaccountable to the people.

This policy concern is the very foundation of the Chevron doctrine. As the Court noted in Chevron, judges ''are not experts in the field, and are not part of either political branch of the Government.''

H.R. 4768 is not a new idea, but it is a bad idea. Congress considered and rejected a proposal such as this over three decades ago. It wasn't a good idea then, and it is a worse idea now.

I reserve the balance of my time.

Mr. RATCLIFFE. Mr. Chairman, I claim the time in opposition.

The Acting CHAIR. The gentleman from Texas is recognized for 5 minutes.

Mr. RATCLIFFE. Mr. Chairman, I oppose this amendment. It is an amendment which carves out of my bill agency action based on statutes that expressly grant agency discretion.

As agencies seek to act within areas of statutory discretion, courts are more than able, more than qualified to determine responsibly whether the agencies have, in fact, acted within their discretion.

Furthermore, Mr. Chairman, it is imperative that courts no longer defer to agencies, in defining as a matter of statutory interpretation, precisely what the limits of that discretion are. Otherwise, self-serving, unelected, and unaccountable bureaucrats will continue to interpret statutes in such a way as to intentionally empower agency overreach, and the courts will continue to stand idly by and let them get away with it.

I urge my colleagues to oppose this amendment.

I reserve the balance of my time.

□ 2100

Mr. JOHNSON of Georgia. Mr. Chairman, I yield back the balance of my time.

Mr. RATCLIFFE. I will again urge opposition to the amendment.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Georgia (Mr. JOHNSON).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. JOHNSON of Georgia. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Georgia will be postponed.

VACATING DEMAND FOR RECORDED VOTE ON AMENDMENT NO. 2 OFFERED BY MR. JOHNSON OF GEORGIA

Mr. JOHNSON of Georgia. Mr. Chairman, I ask unanimous consent that the request for a recorded vote on amendment No. 2 be withdrawn to the end that the amendment stand disposed of by voice vote. That was the amendment that was originally styled the Jackson Lee amendment No. 2, which I was asked to present by designation.

The Acting CHAIR. The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

The Acting CHAIR. Without objection, the request for a recorded vote is withdrawn. Accordingly, the ''noes'' have it, and the amendment is not agreed to.

There was no objection.

AMENDMENT NO. 5 OFFERED BY MR. JOHNSON OF GEORGIA

The Acting CHAIR. It is now in order to consider amendment No. 5 printed in House Report 114–641.

Mr. JOHNSON of Georgia. Mr. Chairman, as the designee of the gentleman from Rhode Island (Mr. CICILLINE), I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 3, line 11, insert after ''extent necessary'' the following '', and except as otherwise provided in this section''.

Page 4, line 3, insert after the period at the end the following:

SEC. 3. EXCEPTED RULES.

Section 706 of title 5, United States Code, as amended by this Act, is further amended by adding at the end the following:

''(c) In the case of a rule made by the Commissioner of Food and Drugs of the Food and Drug Administration that pertains to consumer safety, to the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action.''.

The Acting CHAIR. Pursuant to House Resolution 796, the gentleman from Georgia (Mr. JOHNSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Georgia.

Mr. JOHNSON of Georgia. Mr. Chairman, this amendment would exempt from the bill any rule issued by the Food and Drug Administration that pertains to consumer safety. This amendment is necessary to safeguard the public health and safety of American consumers from the bill's burdensome regulatory framework, which would significantly delay or prevent critical rules that protect public health and safety from being issued by the FDA.

Just recently, the FDA finally implemented the bipartisan FDA Food Safety Modernization Act, which was passed by Congress and signed into law by President Obama in 2011, representing the most substantial reform to food safety in over 70 years.

According to the Centers for Disease Control, one in six Americans gets sick every year from foodborne diseases. That is 48 million people yearly. Of these 48 million people, 3,000 every year die from diseases that are largely preventable. Under authority and clear regulatory framework achieved by the Food Safety Modernization Act, the FDA's finalized rules will prevent foodborne illnesses and outbreaks associated with contaminated produce among other important protections.

In its letter opposing H.R. 4768, the Coalition for Sensible Safeguards, which represents more than 150 labor, food, and health safety and environmental public interest groups, notes that H.R. 4768 will lead to ''regulatory paralysis,'' particularly for rules related to the food safety sector.

Without this amendment, rules protecting the public's food supply at best would be delayed for months or even years, causing substantial confusion and delay in all agency rulemaking. At worst, the bill gives generalist courts unbridled discretion to make substantive determinations concerning agencies' statutory authority. I ask my colleagues to support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. RATCLIFFE. Mr. Chairman, I claim the time in opposition.

The Acting CHAIR. The gentleman from Texas is recognized for 5 minutes.

Mr. RATCLIFFE. Mr. Chairman, I oppose this amendment, which carves out of the bill consumer safety regulations from the Food and Drug Administration. While this is an important area of regulation, unfortunately, it is yet another area which has been riddled with bureaucratic overreach by unelected, unaccountable bureaucrats and their erroneous whims and political agendas.

Mr. Chairman, we should strengthen the courts' ability to check these types of overreaching and erroneous statutory and regulatory interpretations, not weaken them, as this amendment would do.

I urge opposition to the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. JOHNSON of Georgia. Mr. Chairman, I include in the RECORD a July 11 letter from the Union of Concerned Scientists and also a July 5 letter from the AFL–CIO, both opposing H.R. 4768, the so-called Separation of Powers Restoration Act of 2016.

UNION OF CONCERNED SCIENTISTS,
July 11, 2016.

DEAR REPRESENTATIVE: The Center for Science and Democracy at the Union of Concerned Scientists, representing more than 500,000 members and supporters across the country, strongly opposes H.R. 4768, the deceptively named ''Separation of Powers Restoration Act.''

This misguided legislation would abolish agency deference, a well-established framework under Chevron U.S.A., Inc. v. Natural Resources Defense Council, which allows federal agencies that have the scientific and technical expertise, to interpret and administer laws passed by Congress.

Instead, H.R. 4768 would undermine the scientific expertise at federal agencies. Courts should be deferring to technical experts at agencies to help actualize our landmark public health, safety, and environmental laws, all of which are grounded in the use of science. If agency deference is abandoned, then the use of scientific analysis and evidence in policymaking would be severely restricted.

Furthermore, by placing important science-based public health, safety, and environmental policy decisions in the hands of judges who lack specialized knowledge of the technical aspects of the issues agencies must deal with, there may in fact be an increase in regulatory uncertainty for all stakeholders.

What H.R. 4768 really seeks to do is subvert well-established legal norms that govern the development and implementation of science-based safeguards that are vital to protecting the health and safety of Americans, especially communities of color and low income communities, who often face the biggest public health, safety, and environmental threats. Vulnerable communities and populations stand to lose the most when the process to enact these safeguards is crippled, exacerbating long standing inequity.

Congress writes the laws to ensure access to clean air and water, safe consumer products, and untainted food and drugs. Federal agencies fulfill those mandates and have the necessary scientific expertise to do so. If Congress believes that an agency is misinterpreting the intent of a statute, it has the power to enact new legislation to establish clear and precise criteria and boundaries for the executive to carry out. This is the common-sense approach.

We urge Congress to improve the use of science in our federal policymaking, and work to strengthen science-based safeguards, not undermine them.

This harmful legislation would give judges the ability to override scientific expertise and the administrative record and instead substitute their own inexpert views with limited information. We strongly urge a no vote on H.R. 4768. It is just another recipe for stymieing science-based safeguards and does not deserve your support.

Sincerely,

ANDREW A. ROSENBERG, PH.D.,
Director, Center for Science and Democracy, Union of Concerned Scientists.

JULY 5, 2016.

Re Opposition to H.R. 4768, the so-called ''Separation of Powers Restoration Act of 2016''

DEAR REPRESENTATIVE: On behalf of our millions of members, activists, and supporters nationwide we, the undersigned organizations, urge you to oppose H.R. 4768, the so-called ''Separation of Powers Restoration Act of 2016''. The bill is flawed and harmful and should not become law. Deference to reasonable agency interpretations of statutes pursuant to Chevron U.S.A., Inc., v. NRDC, 467 U.S. 837 (1984), is a longstanding and well-understood framework for judicial review that acknowledges the appropriate powers of the three constitutional branches in enacting, administering, and interpreting statutes. The bill is an attempt to abandon this framework and upend more than 30 years of well-established administrative law.

H.R. 4768 is motivated by a desire to transfer to judges statutory implementation power that Congress has previously delegated to the executive branch. Congress has the power to enact clear, prescriptive laws that establish criteria and boundaries around agency implementation of statutes. If Congress perceives the executive branch to be implementing statutes in a manner inconsistent with their enactment, the appropriate response is to enact clearer and more-prescriptive statutes, not to upend three decades of established, overarching case law as H.R. 4768 seeks to do.

At root, H.R. 4768 seems motivated by the dissatisfaction of the political party that currently controls Congress with the statutory implementation decisions made by the current Administration, which is controlled by a different political party. These sorts of partisan disagreements are not an adequate reason to overturn more than 30 years of established case law governing federal administrative law.

Accordingly, we urge you to vote no on H.R. 4768.

Thank you for your consideration.

Sincerely,

AFL–CIO,
American Association for Justice,
Americans for Financial Reform,
The American Federation of State County & Municipal Employees (AFSCME),
Center for Responsible Lending,
Consumer Federation of America, Daily Kos,
Earthjustice,
Economic Policy Institute,
Free Press Action Fund,
Institute for Agriculture & Trade Policy (IATP),
National Association of Consumer Advocates,
National Consumer Law Center,
National Employment Law Project,
National Hispanic Media Coalition,
Natural Resources Defense Council,
Public Citizen,
U.S. PIRG,
Union of Concerned Scientists,
United Steelworkers (USW),
Voices for Progress.

Mr. JOHNSON of Georgia. Mr. Chairman, I yield back the balance of my time.

Mr. RATCLIFFE. Mr. Chairman, I again urge opposition to the amendment.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Georgia (Mr. JOHNSON).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. JOHNSON of Georgia. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Georgia will be postponed.

Mr. RATCLIFFE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. THOMPSON of Pennsylvania) having assumed the chair, Mr. MOOLENAAR, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 4768) to amend title 5, United States Code, with respect to the judicial review of agency interpretations of statutory and regulatory provisions, had come to no resolution thereon.

HONORING VOLUNTEER FIREFIGHTERS

(Mr. THOMPSON of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMPSON of Pennsylvania. Mr. Speaker, I rise in recognition of the selfless service of volunteer firefighters across Pennsylvania's Fifth Congressional District, our Commonwealth, and the United States of America.

Yesterday, as a 35-year veteran of my own community volunteer fire department, I joined with volunteer firefighters and actually one paid fire company from across the Fifth Congressional District in discussing their service and the challenges that they are facing. I was proud to be joined by more than 20 departments tasked with serving in communities and places such as Erie, Jefferson, Elk, McKean, Venango, Potter, and Clarion Counties.

As a volunteer firefighter myself, I was very interested to hear about their concerns regarding funding, adequate training, and one of the biggest problems facing volunteer fire companies: declining enrollment and manpower. I look forward to working with each of these companies in the future to help address many of these issues.

It is hard to overstate the importance of the volunteer men and women who put their lives on the line in order to protect their neighbors and their communities. I have the highest degree of respect for their service, and I look forward to continued cooperation in the future.

RECESS

The SPEAKER pro tempore (Mr. MOOLENAAR). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 9 o'clock and 10 minutes p.m.), the House stood in recess.

□ 2145

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. COLLINS of Georgia) at 9 o'clock and 45 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4992, UNITED STATES FINANCIAL SYSTEM PROTECTION ACT OF 2016; PROVIDING FOR CONSIDERATION OF H.R. 5119, NO 2H2O FROM IRAN ACT; AND PROVIDING FOR CONSIDERATION OF H.R. 5631, IRAN ACCOUNTABILITY ACT OF 2016

Mr. STIVERS, from the Committee on Rules, submitted a privileged report (Rept. No. 114–682) on the resolution (H. Res. 819) providing for consideration of the bill (H.R. 4992) to codify regulations relating to transfers of funds involving Iran, and for other purposes; providing for consideration of the bill (H.R. 5119) to prohibit the obligation or expenditure of funds available to any Federal department or agency for any fiscal year to purchase or issue a license for the purchase of heavy water produced in Iran; and providing for consideration of the bill (H.R. 5631) to hold Iran accountable for its state sponsorship of terrorism and other threatening activities and for its human rights abuses, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5538, DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2017; PROVIDING FOR PROCEEDINGS DURING THE PERIOD FROM JULY 15, 2016, THROUGH SEPTEMBER 5, 2016; AND FOR OTHER PURPOSES

Mr. STIVERS, from the Committee on Rules, submitted a privileged report (Rept. No. 114–683) on the resolution (H. Res. 820) providing for consideration of the bill (H.R. 5538) making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2017, and for other purposes; providing for proceedings during the period from July 15, 2016, through September 5, 2016; and for other purposes, which was referred to the House Calendar and ordered to be printed.

FEW AMERICANS BELIEVE THE MEDIA

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, a recent study on the media was conducted by the Newseum Institute and USA Today.